

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
BOARD OF ADMINISTRATION
LINCOLN PLAZA, 400 P STREET
SACRAMENTO, CA 95814**

July 23, 2004

**NOTICE OF MODIFICATION TO
TEXT OF PROPOSED REGULATIONS**

Pursuant to the requirements of Government Code section 11346.8(c), and Section 44 of Title 1 of the California Code of Regulations, the CalPERS Board of Administration ("Board") is providing notice of modifications to the proposed adoption of sections 584.5 and 584.8 of Title 2 of the California Code of Regulations. The regulations as originally proposed were the subject of a Notice of Proposed Regulatory Action published January 2, 2004, in the California Regulatory Notice Register, Register 2004 No. 1-Z. A public hearing was held on February 18, 2004 and the Board adopted the regulations on February 19, 2004.

If you have comments regarding the modifications, you may submit them in writing to the Board between July 24, 2004 and August 7, 2004. All written comments must be received by 5:00 p.m. on August 7, 2004. Comments may be submitted by fax at (916) 795-3379; e-mail at the following address: marilyn_clark@calpers.ca.gov or mailed to the following address:

Marilyn Clark, Regulations Coordinator
California Public Employees' Retirement System
400 P Street, Room 1120
P.O. Box 942702
Sacramento, CA 94229-2702

Telephone: (916) 795-3007

The Board is accepting comments only on the proposed modification of the regulations. All written comments on the proposed modification that are received by August 7, 2004 will be reviewed and responded to by the Board's staff as part of the compilation of the rulemaking file.

PROPOSED REGULATORY ACTION BY CALPERS

Adoption of Title 2, Chapter 2, Subchapter 1, Article 7.5 **ARTICLE 7.5 PARTICIPATION IN RISK POOLS**

§ 584. Risk Pools - Definitions

- (a) For purposes of this Article, a “Rate Plan” consists of all CalPERS members for which a single employer contribution rate is produced annually.
- (b) For purposes of this Article, a “Side Fund” shall be the difference between the actuarial value of assets and the actuarial liabilities of the rate plan at the time of joining a risk pool.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.1. Risk Pools – Required Participation for Existing Contracting Agencies

Following the creation of risk pools pursuant to Section 20840 of the Government Code, any existing contracting agency with a rate plan of less than 100 active members on any annual actuarial valuation date shall be required to participate in a risk pool. Participation shall be effective as of that valuation date for all members of that rate plan, but no earlier than the June 30, 2003 actuarial valuation which will be used to set employer contribution rates for fiscal year 2005-2006.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.2. Risk Pools – Required Participation for New Contracting Agencies

A new contracting agency with CalPERS following the creation of risk pools shall be required to participate in a risk pool if the number of active members in the rate plan is less than 100 at the time of the initial actuarial valuation.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.3. Risk Pools – Optional Participation

A contracting agency with 100 or more active members on each annual valuation date after June 30, 2003 may, by amendment to its contract, participate in a risk pool provided that the actuary determines such participation will not be unfavorable to other

agencies in the pool. In the event that such participation would be unfavorable, the matter may be referred to the CalPERS Board for a hearing.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.4. Risk Pools – County Offices of Education, School Districts and Community College Districts

Notwithstanding Section 584.1, county offices of education, school districts and community college districts shall not be required to participate in a risk pool. County offices of education, school districts and community college districts shall only be allowed to establish a contract with CalPERS to participate in a risk pool if the service retirement formula of the risk pool provides higher factors at all ages than the service retirement formula applicable to school members.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.5. Risk Pools – Amortization of Side Funds

The side fund shall be amortized at the actuarially assumed investment return pursuant to CalPERS Board policies. All investment gains and losses on the side fund that exceed or fall below the actuarially assumed investment return shall be attributed to the risk pool.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.6. Risk Pools – Assignment to Risk Pools

A rate plan participating in a risk pool shall be assigned to one of the risk pools based on the service retirement formula applicable to its active members.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.7. Risk Pools – Leaving and Transferring Between Risk Pools

Any contracting agency participating in a risk pool shall be allowed to transfer the assets and actuarial liabilities of its rate plan into another risk pool by contracting for a service retirement formula offered by the other risk pool. For this purpose, the assets to be transferred shall be the pro-rata share of the current pool's net assets (net of all side funds) plus the rate plan's remaining side fund, as determined by the actuary. Following the transfer to the new pool, a new side fund shall be established equal to the difference between the assets brought into the new pool and the product of the actuarial liabilities

of the rate plan under the new service retirement formula and the net funded ratio of the new pool as determined by the actuary. A contracting agency shall not be allowed to terminate its participation in a risk pool, unless the agency's contract is terminated pursuant to Sections 20570, 20571, or 20572 of the Government Code. Upon termination of the contract, the affected members shall become part of the terminated agency pool pursuant to Section 20578 of the Government Code.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.8. Risk Pools – Classification of Benefit Provisions

The CalPERS Board shall separate, in accordance with criteria established by Board policies, the benefit provisions available to a contracting agency into various classifications that. These classifications will be handled as follows:

- a) Class 1 benefits may vary by rate plan within each risk pool. Agencies contracting for a Class 1 benefit will be responsible for the past service liability associated with such benefit and will be required to pay a surcharge established by the actuary to cover the ongoing cost (normal cost) of the Class 1 benefit. Class 1 benefits shall be the optional benefits meeting the following criteria:
 - i) Impact the ongoing cost (either total or employer normal cost) of the risk pool by more than 0.25% of payroll; or
 - ii) The benefit is not available to all plans participating in the risk pool.
- b) Class 2 benefits may vary by rate plan within each risk pool. Agencies contracting for a Class 2 benefit will be required to pay the full one time cost of the benefit, as established by the actuary. Class 2 benefits shall be the optional benefits, other than Class 1 benefits, meeting the following criteria:
 - i) No impact on the ongoing cost (normal cost) of the risk pool; and
 - ii) Provide a one time increase in benefit with an identifiable increase in accrued liabilities.
- c) Class 3 benefits may vary by rate plan within each risk pool. However, the employer contribution rate will not vary within the risk pool due to the Class 3 benefits. Class 3 benefits shall be the optional benefits meeting the following criteria:
 - i) Impact the ongoing cost (normal cost) of the risk pool by no more than 0.25% of payroll

The CalPERS Board reserves the right to modify the classification of benefits.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.9. Risk Pools – Merger of Risk Pools

In the event that the number of contracting agencies participating in a risk pool is determined by the actuary to be too small to reduce the volatility in employer contribution rates caused by unexpected demographic events, the risk pool will be merged with another risk pool identified by the actuary.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.

§ 584.10. Risk Pools – Superfunded Status

For employers participating in a risk pool, the actuary shall determine on an annual basis whether or not the employer's rate plan is superfunded pursuant to Section 20816 of the Government Code. In determining whether the rate plan is superfunded, the actuary shall use assets equal to the pro-rata share of the current pool's net assets plus the plan's remaining side fund. Superfunded plans may cover its employees' normal member contributions using its employer assets. Such transaction will be tracked through the rate plan's individual side fund.

NOTE: Authority cited: Sections 20120, 20121 and 20840, Government Code.
Reference: Section 20840, Government Code.